

FCC MAIL SECTION

Federal Communications Commission

DA 98-1797

SEP 14 10 24 AM '98

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b).

Table of Allotments.

FM Broadcast Stations.

(Linn, Missouri)

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) MM Docket No. 98-164

) RM-9357

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NOTICE OF PROPOSED RULE MAKING

Adopted: September 2, 1998

Released: September 11, 1998

Comment Date: November 2, 1998

Reply Date: November 17, 1998

By the Chief, Allocations Branch

1. Before the Commission for consideration is a petition for rule making filed by R. Lee and Sarah H. Wheeler ("Petitioners"), proposing the allotment of Channel 276A at Linn, Missouri, as that community's first local broadcast service. Petitioners indicate that they will file an application for Channel 276A at Linn if the channel is allotted to the community.

2. In support of their request, Petitioners state that Linn is an incorporated community governed by a mayor and city council form of government. Petitioners point out that the 1990 Census credits Linn with a population of 1,211 people and that it is the County Seat of Osage County which has a population of 12,018 people. Further, Petitioners state that the community has a post office and its own zip code, 65051, and the educational needs of its citizens are met by the Linn R-2 school district and by St. George's parochial school and the Linn State Technical College. According to Petitioners, Linn has its own police and fire departments, municipally owned water treatment and sewage plants, several municipal parks, and its health needs are served by independent physicians and dentists and the Linn Family Health Care Center. Petitioners also state that Linn has numerous businesses, including new car dealers, banks, restaurants, grocers and video tape rental outlets.

3. We believe the proposal warrants consideration because the proposed allotment would provide a first local service to Linn, Missouri. A staff engineering analysis indicates that Channel 276A can be allotted to Linn consistent with the minimum distance separation requirements of

by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204.(b) and 0.283 of the Commission's Rules, **IT IS PROPOSED TO AMEND** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off Procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties, must be made in written comments reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal communications Commission,

Washington, D, C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D. C.